

REMARKS

This Amendment is submitted in response to the Office Action dated December 3, 2007. Claims 1, 2, 4, 9, 10, 18, 21, 22, 25, 28-31 and 42-45 are pending in the application. Claims 1, 2, 4, 9, 10, 18, 21, 22, 25, and 29 have been amended. Claims 42-46 have been added. No new subject matter has been added by the amendments or the new claims. Claims 3, 5-8, 11-17, 19-20, 23-24, 26-27 and 32-41 have been canceled without prejudice or disclaimer, and Applicants reserve the right to file any of these claims in one or more continuing patent applications. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

In the Office Action, Claims 4, 7, 9, 27 and 28 were objected to. In response, Applicants have amended the claims as recommended in the Office Action and respectfully submit that the objections have been overcome.

In the Office Action, Claims 2, 18, 22 and 29 were rejected under 35 U.S.C. §112, second paragraph, for alleged indefiniteness based on an interpretation of the claims to suggest that strains Sfil and Sfilc16 are the modified strains. Applicants have amended the claims to clarify that the bacterial strain is a modified bacterial strain of a strain of *S thermophilus* selected from the group consisting of Sfil and Sfilc16. Accordingly, Applicants respectfully submit that the rejection has been overcome and should be withdrawn.

In the Office Action, Claims 2, 28, 22, 25 and 29 were rejected under 35 U.S.C. §112, first paragraph for alleged lack of public accessibility in the form of a deposit and 37 C.F.R. §1.801-1.809. In response, the undersigned attorney states the following:

1. During the pendency of this application, access to strains Sfil and Sfilc16 will be afforded to the Commissioner upon request;
2. Upon granting of the patent the strains Sfil and Sfilc16 will be available to the public under the conditions specific in 37 C.F.R. §1.808;
3. The deposit will be maintained in a public repository for a period of thirty (30) years or five (5) years after the last request or for the effective life of the patent, whichever is longer; and

4. The deposit will be replaced if it should ever become available.

Accordingly, Applicants respectfully submit that the rejection has been overcome and should be withdrawn.

The Office Action further rejects Claims 1-2, 7, 9-10, 18, 20-22, 24-25, 27, 29 and 34-41 under 35 U.S.C. §112, first paragraph for alleged lack of sufficient disclosure for any modification of *S. thermophilus*. To place the claims in condition for allowance, Applicants have amended Claims 6, 9, 10, and 21 to include the limitation of Claims 3-4, 19, 23, 26 and 28-31 and the intervening claims as suggested in the Office Action. Accordingly, Applicants respectfully submit that the rejection has been overcome and should be withdrawn.

For the foregoing reasons, Applicants respectfully submit that the application is in condition for allowance and current solicits reconsideration of same.

Respectfully submitted,

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